

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. A-5816

PETITION OF JAMES C. AND SUZANNE REYNOLDS

(Hearing held October 9, 2002)

OPINION OF THE BOARD

(Effective date of Opinion, November 8, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The petitioners propose to construct a two-story garage addition that requires a three (3) foot variance as it is within four (4) feet of the side lot line. The required setback is seven (7) feet.

The subject property is Lot 60, Block 4, Bradley Hills Subdivision, located at 5114 Manning Drive, Bethesda, Maryland, 20814, in the R-60 Zone (Tax Account No. 160700444870).

Decision of the Board: Requested variance **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a 12 x 20 foot two-story garage addition.
2. The petitioner testified that the house was built in 1941 and that the property is a small, shallow lot. The petitioner testified that the lot is one of two lots in the neighborhood that is 5,298 square feet (Lots 59 and 60). See, Exhibit No. 10(a).
3. The petitioner testified that the proposed construction would convert an existing carport into a single car garage and that the second story of the garage would only be used for family storage.
4. The record contains letters of opposition from Melanie B. Manfield, resident at 5115 Bradley Boulevard, and from Nancy Leopold and Jeff Wagner, residents at 5126 Manning Drive, that state that the requested variance would significantly reduce the green space between the petitioner's property and the neighboring properties and that the petitioner's lot is not unique and shares the same conditions as the other adjoining and neighboring lots.

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioner's lot has no exceptional topographical or other conditions that are peculiar to the property. The Board further finds that while the petitioner's lot is smaller than the current minimum lot size for the zone, the variance request is not as a result of the lot size, but as a result of the location of the existing carport.

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of three (3) feet from the required seven (7) foot side lot line setback for the construction of a two-story garage addition is denied.

Board Chairman Donald H. Spence, Jr., was necessarily absent and did not participate in this Resolution. On a motion by Louise L. Mayer, seconded by Allison Ishihara Fultz, with Angelo M. Caputo and Donna L. Barron, Vice Chairman, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

Donna L. Barron
Vice Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 8th day of November, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.